

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JUDITH A. ROGIND,

Plaintiff,

Case No. 21-cv-12514  
Hon. Matthew F. Leitman

v.

NEW REZ, LLC,

Defendant.

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**ORDER (1) GRANTING IN PART AND DENYING IN PART  
DEFENDANT’S MOTION TO DISMISS (ECF No. 13) AND  
(2) TERMINATING AS MOOT DEFENDANT’S MOTION TO STAY  
DISCOVERY (ECF No. 16)**

On August 18, 2022, the Court held a hearing on (1) Defendant’s motion to dismiss Plaintiff’s First Amended Complaint (ECF No. 13) and (2) Defendant’s motion to stay discovery (ECF No. 16). For the reasons explained on the record, the motion to dismiss is resolved as follows:

- The motion is **DENIED** with respect to Count 1.
- The motion is **DENIED** with respect to Count 2.
- The motion is **GRANTED** with respect to Count 3. Count 3 is **DISMISSED**.
- The motion is **GRANTED** with respect to Count 4. Count 4 is **DISMISSED**.
- The motion is **GRANTED IN PART AND DENIED IN PART** with respect to Count 5. To the extent that Plaintiff brings a claim under the Fair Debt

Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”) in Count 5 arising out of communications that were made more than one year before the Complaint was filed, the motion to dismiss is **GRANTED**. Plaintiff may not pursue damages under the FDCPA arising out of communications that were made more than one year prior to the filing of the Complaint. The Court reserves ruling, at this time, on whether those communications may be admissible for some other purpose. To the extent that Plaintiff brings a claim under the FDCPA in Count 5 arising out of the sending of a November 2, 2020, letter regarding hazard insurance (*see* First Am. Compl. at ¶111, ECF No. 11, PageID.116), the motion to dismiss is **GRANTED**. Plaintiff may not pursue damages under the FDCPA arising out of the November 2, 2020, letter. The motion is **DENIED** in all other respects. More specifically, the motion is **DENIED** with respect to the communications identified as “Mortgage Statement[s]” that were made less than one year prior to the filing of the Complaint (*see, e.g., id.* at ¶113, PageID.116) and the alleged communications identified as “Annual Escrow Account Disclosure Statement[s] and Account Histor[ies]” that were made less than one year prior to the filing of the Complaint (*see, e.g., id.* at ¶¶ 114-115, PageID.116-117).

- The motion is **DENIED** to the extent that it asks the Court to strike Plaintiff’s class allegations.

Finally, for the reasons explained on the record, Defendant's motion to stay discovery is **TERMINATED AS MOOT**. The Court will now set a scheduling conference with the parties to set a schedule in this action. The parties may commence discovery after the scheduling conference is held and completed.

**IT IS SO ORDERED.**

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: August 18, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 18, 2022, by electronic means and/or ordinary mail./

s/Holly A. Ryan

Case Manager

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